

Legal Decision
(Cip)

3 January 1947

OGC Has Reviewed

MEMORANDUM FOR DEPUTY EXECUTIVE FOR PERSONNEL AND ADMINISTRATION

Subject: Appointment of Naturalized Citizens and Aliens

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1. Reference is made to the attached communication from Chief, [redacted] to the Assistant Director for Operations, dated 12 December 1946, concerning the above subject. It is pointed out in this memorandum that it is necessary for [redacted] to rely largely on naturalized citizens for certain languages, and, in a few instances, recruitment of aliens has been unavoidable. Such recruitment is based on the high requirements of [redacted] for [redacted] requiring not only native fluency in English and one or more foreign languages but also familiarity with political, economic and social backgrounds of the countries concerned.

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[redacted]
ants to overseas posts, including aliens, with an understanding that alien employees will not have access to information classified above restricted. This matter was referred to this office with a request for an opinion as to the legality of such appointments.

3. The restrictions against employment of aliens by the Federal Government appear in numerous Appropriation Acts. The Independent Offices Appropriation Act of 1947, approved 20 March 1946, (Public Law 534, 79th Congress) provides in substance that, unless otherwise specified and until 1 July 1947, no part of any appropriation in this or any other Act shall be used to pay the compensation of any officer or employee of the Government of the United States whose post of duty is in the continental United States, unless such person (1) is a citizen of the United States; (2) is a person in the service of the United States on the date of enactment of this Act who, being eligible for citizenship, had filed a declaration of intention to become a citizen of the United States prior to such date; or (3) is a person who owes allegiance to the United States. The above provisions are in Section 203 of the Act, and the Section further provides that the restriction shall not apply to citizens of the Commonwealth of the Philippines or to the nationals of those countries allied with the United States in the prosecution of the war. [redacted] has advised that all Aliens whom he proposes to employ will have posts of duty outside the continental limits of the United States. Therefore, it would appear that there is no legal objection to the employment of these persons.

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4. In all cases of employment of aliens, there should be appropriate security investigations. In the cases of non-native-born Americans, i.e., naturalized citizens, there appears no legal obstacle to their employment by the Government. There would seem to be a question of policy involved as to whether CIO will employ either non-native-born Americans or aliens.

5. It is suggested that all appointments in the above categories be cleared with the Personnel Division before any negotiations are conducted with the prospective employees. It is believed that CIO has the necessary appointing authority without prior approval by the Civil Service Commission, in view of its Schedule A authority.

[REDACTED]
Assistant General Counsel

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cc: [REDACTED]
Chief, Pers. Div.
[REDACTED]

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JRW:mbt